THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.25111 of 2006

DATED 20.12.2006

Between:
Smt.Paruchuri Lakshmi Narasamma. … PETITIONER

versus

Commissioner and Director of Municipal Administration, A.P. Hyderabad and two others. …
RESPONDENTS

WRIT PETITION NO.25111 of 2006

ORDER:

This Court ordered Notice Before Admission on 13.12.2006. Heard Sri Gade Venkateswara Rao, learned counsel representing the writ petitioner, learned Government Pleader for Municipal Administration representing the 1st respondent, learned Government Pleader for Revenue representing the 2nd respondent and Sri B.Venkataratnam, learned Standing Counsel representing the 3rd respondent.

2. The Writ Petition is filed for a Writ of Mandamus to direct the respondents to allot the house site to petitioner an extent of 266.66 square yards in plot No.36, covered by L.P.No.31/56, Block No.21, Ward No.18, T.S.No.1707, situated at Brundavan Gardens, Guntur, in the place of earlier allotment on the sale consideration paid in the year 1979 on the basis of no loss no profit by declaring the action of the respondents in demanding the petitioner to pay the sale consideration

at present market value to the aforesaid house site is illegal, biased and void and pass such other suitable orders.

3. It is stated that the petitioner is the widow of late Paruchuri Subba Rao, who had worked as Clerk in the Municipality, Guntur and while her husband was working in the Municipality, thy were allotted a quarter No.47 and her husband died due to Cancer in the year 1987 after his retirement. After the death of her husband, she had been living in the said house for more than 32 years upto the year 1991. Subsequently in the year 1991, the petitioner was thrown out from the said quarter in pursuance of Court decree obtained by one Shaik Mahaboob, retired Municipal Teacher regarding the allotment of the said house. It is also stated that on 24.9.1956, an extent of 8 acres 48 cents of land was acquired for house sites for public purpose at Brundavan Gardens, Nallapadu village, Guntur town, at the rate of Rs.9,050/- per acre. There is a condition in the said acquisition that out of the above total acquired land, 25% of land should be allotted to the municipal employees for their house sites on the basis of no loss-no profit. It is also further stated that it was informed to the municipal employees that in order to allot the house sites to the municipal employees from the aforesaid land, they should deposit Rs.100/- and also Rs.1,250/- to be paid for sale consideration of the house site through D.D. on the basis of no loss-no profit. Accordingly, the petitioner deposited Rs.100/- on 9.9.1979 and also paid total sale consideration of Rs.1,250/- through D.D.No.AB/58.015642, dated 31.8.1979. It is also stated that the petitioner was thrown out from the quarter No.47, which was allotted to her earlier and she had no house or house site. It is stated that on 4.4.1991, petitioner made an application to the 3rd respondent for allotment of plot No.36, covered by L.P.No.31/56, Block No.21, Ward No.18, T.S.No.1707, situated at

Brundavan Gardens, Guntur Town, for an extent of 266.66 square yards, which is classified as well site and the same is clear vacant as the well was closed long ago, as the aforesaid sale consideration amount was pending since 1979, without allotting a house site after the petitioner was thrown out from the quarter No.47. It is also stated that the petitioner's application dated 4.4.1991 was sent to the Council on 13.11.1991 by the 3rd respondent for approval along with remarks of Town Planning Officer. It is stated that on 28.2.1992 the petitioner's requisition was resolved by Council Resolution in C.R.No.946 vide RC No.7490/91-Ge requesting the 2nd respondent to fix the market rate in order to allot the aforesaid site to her. Pursuant to the aforesaid resolution, the 3rd respondent addressed a letter to the 2nd respondent along with a copy of resolution and plan requesting him to fix the market rate to the said site as per Rules vide RC No.7490/91-G3, dated 6.3.1992. The 2nd respondent in turn instructed the Mandal Revenue Officer, Guntur, to send the market value report from 1982to 1992 as per registration values in order to determine the market value of the subject site vide proceeding Rc.No.2098/92-D7, dated 28.3.1992. Basing on the registration market value report, the 2nd respondent fixed the market rate for Rs.300/- per square yard. At that juncture on 5.12.1992 the petitioner requested the 3rd respondent to allot the said site as per purchase value in the light of G.O.Ms.No.235, M.A., dated 6.6.1975 on the basis of no loss-no profit instead of rate fixed by the 2nd respondent for Rs.300/- per square yard since all other sites were allotted to others in the same locality as per the aforesaid G.O., but without considering the request of the petitioner, the 3rd respondent send an endorsement to her fixing the market value for Rs.80,000/- for the subject land and called her to intimate her

acceptance within 7 days, failing which further action will be taken vide proceeding RC No.7490/91-G3, dated 4.1.1993. It is also stated that the petitioner submitted a representation to the 3rd respondent stating that she was once allotted site, but she was thrown out of it as stated above and the subject site is low lying area and she had to invest considerable amount to make the site for rehabilitation and she had paid the entire sale consideration in the year 1979 itself and some sites were given to municipal employees on no profit-no loss basis on payment of Rs.3.25 ps per square yard and as such she requested the 3rd respondent to allot the said site on payment of cost as was done to others. It is also stated that subsequently the matter was kept pending with internal correspondence with the 1st respondent. Then in the year 1997, the 1st respondent wrote a letter to the 2nd respondent requesting him to make specific recommendation as to whether alienation of site is on the present rate of Rs.1,000/- per square yard or otherwise, and to report whether the land can be used by Municipal Corporation for public/commercial activities vide proceedings Roc.No.7268/97/12, dated 19.9.1997. It is stated that again the matter was kept pending upto this year with the respondents without taking any decision, ultimately the 3rd respondent addressed a letter to the Vice Chairman, V.G.T.M. UDA., Guntur to take further action in this matter informing the above Council Resolution and the present market value of the site is Rs.3,460/- per square yard as per records of Sub-Registrar's Office, Guntur by submitting a copy to the 1st respondent vide proceedings Roc.No.2861/06/G1, dated 25.4.2006. After the petitioner came to know the same, she made another representation to the 2nd respondent requesting him to allot the said site to her at the rate of Rs.3.25 ps per square yard treating the value of the property is

below Rs.10,000/- as it was allotted to one M.Venkata Narayana in the year 1990 in the same locality vide proceedings D.No.1732/90-D7. As the same copy is not available, the petitioner filed a copy of proposal to allot the house site in the same locality to the said Venkata Narayana. It is also further stated that since the year 1991 to till date, the petitioner was running to pillar to post to get the house site being a widow in old age and most of her life was spent in the offices of the respondents for this purpose with a hope that she can obtain the said house site from the respondents without taking aid from the Court of law, but ultimately she lost her confidence upon the respondents, being a old widow, and approached this Court with fond of hope. It is further stated that the action of the respondents in not allotting the aforesaid house site to the petitioner in the place of earlier allotment on the basis of no profit-no loss as it was allotted to others in the same locality in the same period, even though the petitioner paid total sale consideration in the year 1979 itself as demanded by the 3rd respondent is contrary to law, discrimination and opposed to the principles of natural justice apart from violative of Articles 14 and 300-A of the Constitution of India. It is stated that since 1991 the respondents are making correspondence from to other vice-versa to get information regarding nature of land, use of land and market value of the land without keeping in their mind that the petitioner is claiming house site in the place of earlier allotment. The respondents ought to have noted that the present market value of the property does not applicable to the case of the petitioner on the ground that she had paid entire sale consideration in the year 1979 itself as demanded by the 3rd respondent and as such to get the aforesaid information is futile exercise on the part of the respondents. It is also stated that the respondents further to have noted that the land is not expanded but only market value is increased due to delay of the

respondents in finalisation of her matter and therefore she is entitled to get the site as per earlier rate in the scheme of no profit-no loss.

4. The correspondence RC No.7490/91-G3, dated -4-1993 by the Commissioner to the District Collector and District Magistrate, Guntur reads as hereunder:

"From
Sri K.Venkateswara Rao, B.A.
Commissioner, Guntur.

To
The District Collector and
District Magistrate, Guntur.

Sir,

R.C.No.7490/91-G3, dated -4-1993.

Sub: Assignments Guntur Municipality – Transfer of site in Block
No.21, Ward No.18, T.S.No.1707 – Regarding.
Ref: 1.This office letter No.7490/91, G-3, dt.6.2.1992.
2.Council Resolution No.946, dt. 28.2.92.
3.Lr.of District Collector Rc.No.2098/92.D7, dt.30.10.92.
@@@

In the reference 3rd above cited, the District Collector requested to send a report to assign a plot to Smt.Paruchuri Lakshmi Narasamma in Block No.21, Ward No.18, T.S.No.1707, situated at Brundavan Gardens, with 40' x 60' sizes.

Report:

On 24.9.1956 the District Collector acquired land to an extent of Ac.8-48 cents at the rate of Rs.9,.050/- per acre in Brundavan Gardens, Nallapadu village, Guntur town to allot the same for public. There is a condition that out of the said land to an extent of 25% to be allotted to the municipal employees.

Smt. Paruchuri Lakshmi Narasamma had deposited a sum of Rs.100/- towards deposit and a further sum of Rs.1,250/- was paid towards entire sale consideration for allotment of site through D.D. as per instructions on the basis of no loss-no profit.

There was a dispute regarding the allotment between the applicant and one Sri Shaik Mahaboob and the said allotted house was handed over to the said Shaik Mahaboob pursuant to Court

decree as he succeeded in the Court and as such she had no house.

As the proposed vacant well site is not useful for public purpose, Smt. Lakshmi Narasamma requested to allot the same to her. The husband of Smt.Lakshmi Narasamma died after his retirement from Municipality. The Town Planning Officer sent remarks that the site is not useful for public purpose and she same can be transferred in favour of Smt.Paruchuri Lakshmi Narasamma by District Collector under Rule 4(1) of the Transfer of immovable properties rule on the basis of no profit-no loss as her husband served in the Municipality and as such it is requested to grant permission to allot the said site to Smt.Paruchuri Lakshmi Narasamma as it was done to others of the same locality.

Yours sincerely,
Sd/- Commissioner.

5. In the light of the averments made in the affidavit filed in support of the Writ Petition and also in the light of the proceedings RC.No.7490/91-G3 made by the Commissioner, Guntur to the District Collector and District Magistrate, Guntur, this Court is of the considered opinion that the Writ Petition be disposed of directing the 2nd respondent to consider the case of the petitioner in relation to the allotment of the subject matter of the Writ Petition in the light of the proceedings Rc.No.7490/91-G3, dated 4.5.1993 addressed by the Commissioner, Guntur to the District Collector and District Magistrate, Guntur and take appropriate decision in this regard at the earliest point of time preferably within a period of four (04) weeks from the date of receipt of a copy of this order.

6. The Writ Petition is accordingly disposed of with the above direction. No costs.

20.12.2006

SSR
Issue order copy in three (03) days.
(BO)